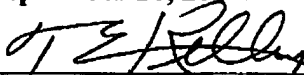


SEP 16 2004

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Thomas E. Kelley, Reg. No. 29,938

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: application of Alan L. Kriz et al.
Serial No. 10/732,721
Filing date: 12/10/2003
For: Single Step Methods for Gene Cloning

Group Art Unit: 1638
Examiner: Barba M. Koroma
Docket No. 38-15(52826)B

Response to Restriction Requirement

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Applicant traverses the requirement for restriction set out in the Office Action of 08/30/2004 as arbitrarily and unnecessarily dividing the claimed subject for the sake of overly simplifying prosecution at applicant's expense. The requirement is supported by an argument unsupported by evidence, i.e. the "transgenic plant can be made by a materially different method such as by conventional breeding techniques not requiring direct DNA transfer." Applicant challenges the PTO to back up this assertion with evidence that such a transgenic plant can be made by conventional breeding techniques not requiring direct DNA transfer.

Applicants hereby provisionally elect Group I comprising claims 1-16 and 18 and encourage the Office to reconsider the requirement by including in the search for the vectors and the transgenic plants, the use of the vectors in making the transgenic plant. It is inconceivable how such an incremental search for the group II claim could be a burden on the office. Because the Group II claim is dependent on a claim from Group I, Applicant specifically request rejoinder if the Group I claim is allowable. Reconsideration of the restriction requirement and concurrent examination of all claims is requested.

Respectfully submitted,



Thomas E. Kelley
Registration No. 29,938
Applicant's Attorney
Phone: 860-572-5274